

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

ROBERT J. DIBELKA,

Plaintiff,

v.

REPRO GRAPHICS, Inc.,
an Illinois corporation,

Defendant.

Cause Number

Plaintiff demands trial by jury

COMPLAINT

NOW COMES the Plaintiff, ROBERT DIBELKA (hereinafter referred to as Plaintiff) by and through his counsel, The Law Offices of Albert F. Ferolie, P.C. and complaining of the Defendant, REPRO GRAPHICS, Inc., an Illinois corporation, states as follows:

JURISDICTION AND VENUE

1. That this suit is brought and jurisdiction lies pursuant to 28 U.S.C. §§1337 and 1343(4) and 42 U.S.C §2000e-5(f). This is an action authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as Title VII) and the American's with Disabilities Act of 1990, as amended (hereinafter referred to as the ADA);

2. That all acts of discrimination alleged herein were committed within the Northern District of Illinois and venue is proper within this District and Division pursuant to 42 U.S.C. §12117(a) and 28 U.S.C. §1391;

PARTIES

3. That Plaintiff is a male citizen of the United States and the State of Illinois, and at all times relevant to this complaint, was a resident of Cook County, Illinois;

4. That Defendant is a corporation organized under the laws of the State of Illinois and is in the business of graphic arts with its principal place of business and headquarters currently in Elk Grove Village, Illinois;

5. That at all times relevant in this complaint, Plaintiff was an “employee” of Defendant within the meaning of Title VII and the ADA and was employed as a maintenance mechanic;

6. That the Plaintiff began his employment with the Defendant on or about November, 1992 and was wrongfully terminated from the Defendant on or about February 20th, 2013;

7. That at all times relevant in this complaint, Defendant was an “employer” as that term is defined under Title VII and the ADA;

ADMINISTRATIVE PROCEDURES

7. That on or about November 4th, 2013, Plaintiff timely filed a “Charge of Discrimination” with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission (hereinafter the “EEOC”), Charge Number 440-2014-00261. A copy of the charge is attached and incorporated herein as Exhibit A.

8. That on or about February 6th, 2014, Plaintiff received the Notice of Right to Sue from the EEOC for Charge Number 440-2014-00261, entitling him to commence action within ninety (90) days of his receipt of the Notice, a copy of which is attached hereto and incorporated by reference as Exhibit B.

9. That the Complaint and Request for Jury Trial in this matter was filed within ninety (90) days of receipt of the aforementioned EEOC Notice of Right to Sue.

FEDERAL CLAIMS

10. That in November 1992, Plaintiff became employed by the Defendant as a pressman;

11. That in 2013 he was working as a Maintenance Mechanic;

12. That in 2008, Plaintiff was diagnosed with Renal Cell Carcinoma, a condition within the definition of disability under the American’s With Disabilities Act;

13. That said diagnosis is recognized as a disability under the ADA.

14. That at all times relevant the Defendant knew of Plaintiff’s disability / diagnosis;

15. That during Plaintiff's employment with the Defendant, he has been subjected to harassment, intimidation, different terms and conditions of employment and denied reasonable accommodations;

16. That Plaintiff complained to Defendant regarding the aforementioned conditions and was subjected to further harassment, different terms and conditions of employment, declined reasonable accommodations and eventually terminated;

17. That Plaintiff was treated differently in his work place as aforementioned because of disabilities and retaliated against for engaging in protected activity in violation of the ADA (See Exhibit A), including but not limited to being denied reasonable accommodations regarding work location, times, and conditions of the work place;

18. That by the conduct described hereinabove, the Defendant has willfully and intentionally, with malice or reckless disregard of the Plaintiff's rights as an employee, engaged in unlawful and discriminatory employment practices in treating the Plaintiff with different terms and conditions as other similarity situated employees, including but not limited to denying him reasonable accommodations; denying him medical leave; and ultimately terminating him on February 20th, 2013 for false and pre-textual reasons, in violation of Title VII and/or the ADA;

19. That as a direct and proximate result of the aforementioned wrongful and discriminatory practices performed by the Defendant, by and through its duly authorized agents, servants and or employees, Plaintiff has suffered and continues to suffer lost wages, lost benefits and other pecuniary damages;

20. That as a direct and proximate result of the aforementioned wrongful and discriminatory practices performed by the Defendant, by and through its duly authorized

agents, servants and or employees, Plaintiff has experienced substantial damages for mental anguish, emotional distress, loss of enjoyment of life, and other nonpecuniary losses;

WHEREFORE, the Plaintiff, ROBERT DIBELKA, requests judgment of this Court against the Defendant, REPRO GRAPHICS, Inc., an Illinois corporation, as follows:

- A. Award the Plaintiff compensatory damages, including pecuniary and non-pecuniary damages in an amount to be determined at the trial of this matter;
- B. Award the Plaintiff his attorney fees, including litigation expenses and the costs of this action;
- C. Award the Plaintiff punitive damages in an amount to be determined at the trial in this matter;
- D. Grant such other relief as may be just and proper.

JURY REQUEST

The Plaintiff, ROBERT DIBELKA, by his counsel, The Law Offices of Albert F. Ferolie, P.C., hereby requests a trial by jury on all issues hereinabove, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted,

The Law Offices of Albert F. Ferolie, P.C.

s/Albert F. Ferolie
Attorney for Plaintiff

THE LAW OFFICES OF ALBERT F. FEROLIE, P.C.
218 N. Jefferson Street
Suite 401
Chicago, IL. 60661
312-715-0255
ARDC #: 6197037

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

440-2014-00261

Illinois Department Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Robert J. DiBelka

Home Phone (Incl. Area Code)

(847) 863-0343

Date of Birth

02-22-1954

Street Address

City, State and ZIP Code

619 N. Harvard Ave, Arlington Heights, IL 60005

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

REPRO GRAPHICS

No. Employees, Members

15 - 100

Phone No. (Include Area Code)

(847) 439-1775

Street Address

City, State and ZIP Code

1900 Arthur Avenue, Elk Grove Village, IL 60007

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☒ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**02-20-2013**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by Respondent in or around November 1992. My most recent position was Maintenance Mechanic. Respondent is aware of my disability. On or around February 20, 2013, I was discharged.

I believe I have been discriminated against because of my disability, in violation of the Americans With Disabilities Act of 1990, as amended.

NOV 04 2013

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Nov 04, 2013

Date

Charging Party Signature

A

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Robert J. DiBelka**
c/o Albert F. Ferolie, Esq.
The Law Office of Albert F. Ferolie
218 North Jefferson, Suite 401
Chicago, IL 60661

From: **Chicago District Office**
500 West Madison St
Suite 2000
Chicago, IL 60661

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

440-2014-00261

Katarzyna Hammond,
Investigator

(312) 869-8024

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

John P. Rowe

John P. Rowe,
District Director

2-3-14

(Date Mailed)

Enclosures(s)

cc: **REPRO GRAPHICS**
c/o Joseph Yastow, Esq.
Laner, Muchin, Ltd.
515 North State Street, Suite 2800
Chicago, IL 60654

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